

REMARKSClaim Rejections – 35 U.S.C. §103(a)

Claims 11, 34 and 57 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Shomo (U.S. Patent No. 4,660,832) in view of Johnson (U.S. Patent No. 2,425,245)..

For a §103 obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1996).

Claim 11 recites a system for providing a grip on hand railing comprising “a hand railing having an outer surface; a skin layer axially wrapped around said outer surface of said hand railing such that the edges of said skin layer do not overlap, said skin layer having a top surface ... wherein said top surface is continuous and flat ... a 4-way stretchable material layer ... said top surface of said stretchable layer adhered permanently to said bottom surface of said skin layer; and a releasable adhesive disposed on said bottom surface of said 4-way stretchable layer, wherein said 4-way stretchable layer is releasably adhered to said outer surface of said hand railing.”

Shomo fails to disclose *hand railing*, a skin layer axially wrapped around *hand railing*, or a stretchable layer releasably adhered to the outer surface of *hand railing*, as

recited in Claim 11. Shomo is only directed towards a handle for use on products such as “tennis rackets, racquetball rackets, golf clubs, baseball bats, and various other impact devices such as hammers, and the like.” Reference numeral 13a, cited by Examiner, is not a hand railing, but rather the handle of tennis racket 12. (FIGS. 1-3; Col. 2, lines 61-68). The handle of a tennis racket (or golf club, hammer, etc.) does not constitute hand railing. As would be appreciated by one ordinarily skilled in the art, hand railing provides hand guidance and support along a structure. When a user grabs hand railing and applies force to it, neither the railing nor the structure to which it is attached move in a significant way, thereby providing something fixed and stable for the user to grab. The impact devices of Shomo, such as the tennis racket handle, are completely different. When a user grabs the handle of a tennis racket and applies force to it, both the handle and the racket move significantly, allowing the user to swing the racket. Therefore, it is clear that the tennis racket handle cited by Examiner does not constitute hand railing as recited in Claim 11.

Additionally, Johnson fails to disclose *hand railing*, a skin layer axially wrapped around *hand railing*, or a stretchable layer releasably adhered to the outer surface of *hand railing*, as recited in Claim 11. Johnson is only directed towards “handles for air hammers, rock drills, and various other devices of the general character which do their work by repeated impact into or against the material being worked upon ....” (Col. 1, lines 1-10). Reference numeral 4, cited by Examiner, is not a hand railing, but rather the handle of a conventional air hammer. (FIGS. 1-2; Col. 3, lines 8-12). The handle of an air hammer does not constitute hand railing. As discussed above, hand railing provides hand guidance and support along a structure. When a user grabs hand railing and applies force to it, neither the railing nor the structure to which it is attached move in a significant way, thereby providing something fixed and stable for the user to grab. The

impact devices of Johnson, such as the air hammer, are completely different. When a user grabs the handle of an air hammer and applies force to it, both the handle and the air hammer move significantly, allowing the user to reposition the air hammer. Therefore, it is clear that the air hammer handle cited by Examiner does not constitute hand railing as recited in Claim 11.

Since neither Shomo nor Johnson discloses the hand railing limitations of Claim 11, they cannot teach these limitations in combination. Therefore, Examiner has failed to establish that all elements of the invention are disclosed in the prior art.

Furthermore, Shomo fails to disclose a skin layer axially wrapped around the outer surface of a hand railing such that the edges of the skin layer do not overlap, as recited in Claim 1. On Page 3 of the Office Action dated October 11, 2005, Examiner even admits that Shomo fails to teach these limitations. Examiner also admits that Shomo fails to disclose the top surface of the stretchable layer being permanently adhered to the bottom surface of the skin layer and the adhesive disposed on the bottom surface of the stretchable layer being releasable. However, Examiner argues that Johnson shows a grip comprising a skin layer axially wrapped around the outer surface of a handrail such that the edges of the skin layer do not overlap, and that it would have been obvious to one ordinarily skilled in the art to modify the invention of Shomo such that the skin layer would be wrapped around the outer surface of the railing as taught by Johnson. Examiner also argues that it would have been obvious to one ordinarily skilled in the art to permanently adhere the top surface of the stretchable layer to the bottom surface of the skin layer on the device shown by Shomo and to apply a releasable adhesive to the bottom surface of the stretchable layer on the device shown by Shomo.

Applicant respectfully submits that Johnson does not teach a skin layer axially *wrapped* around the outer surface of hand railing, as recited in Claim 11. *Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> Edition* provides the following definition:

**wrap vb wrapped** 1 a : to cover esp. by winding or folding

It is also clear from FIG. 11 that axially *wrapping* the skin layer around the outer surface of the hand railing involves folding the skin layer around the hand railing. However, as seen in FIGS. 4 and 6, the skin layer in Johnson is fixed in a U-shape before it is fitted over the handle of the air hammer. Applicant cannot find, nor has examiner cited, any mention of the skin layer being *wrapped* or *folded* around the handle. Simply because the grip in Johnson is fitted over the handle does not mean that it is *wrapped* around the handle. Johnson describes this "outer U-shaped member 8 ... which may be made from any suitable material having sufficient resiliency or springiness to cause the grip to engage the drill handle 4 with sufficient pressure to frictionally retain it in operative position thereon. Certain types of hard rubber or plastics have been found suitable." (Col. 3, lines 19-47). The skin layer in Johnson is constantly in a U-shape, thereby preventing it from being *wrapped* around the handle. This inherent tension and firmness of the skin layer actually teaches away from it being wrapped or folded around the handle, since the flexibility required for wrapping is not consistent with the firm structure taught by Johnson.

Since neither Shomo nor Johnson discloses a skin layer axially *wrapped* around the outer surface of hand railing, they cannot teach this limitation in combination. Therefore, Examiner has failed to establish that all elements of the invention are disclosed in the prior art.

Additionally, Applicant has submitted three affidavits under 37 C.F.R. 1.132 as evidence of non-obviousness, establishing that Applicant's claimed invention satisfies a

long-felt but unsolved need. According to MPEP 716.01(a), affidavits or declarations containing evidence of long-felt but unsolved needs must be considered by the examiner in determining the issue of obviousness of claims for patentability under 35 U.S.C. §103. Each affiant, Al Shankle, Mary Ellen Padgett and Wendy Simons, has significant experience and knowledge with respect to hand railing and the problems associated with it. Furthermore, each affidavit establishes that there has been a long felt and persistent need for providing a grip on hand-railing that is both secure and comfortable. Each affidavit also establishes that despite the attempts of others, no one has satisfied the need before Applicant's claimed invention. Finally, each affidavit establishes that the claimed invention does in fact satisfy the long-felt need.

Applicant respectfully submits that the invention of Claim 11 would not have been obvious to one ordinarily skilled in the art at the time the invention was made. Therefore, Applicant respectfully submits that the invention of Claim 11 is patentable over Shomo in view of Johnson.

The same arguments made above with respect to the patentability of Claim 11 are applicable to the patentability of Claims 34 and 57 as well

Therefore, Applicant respectfully submits that Claims 11, 34 and 57 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 23, 46 and 69 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Shomo in view of Johnson and Kobe et al. (U.S. Patent No. 6,610,382 B1).

The same arguments made above with respect to the patentability of Claim 11 are applicable to the patentability of Claims 23, 46 and 69 as well. Therefore, Applicant

respectfully submits that Claims 23, 46 and 69 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 74, 76 and 78 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Shomo in view of Johnson, and further in view of Oseroff et al. (U.S. Patent No. 3,848,480).

Since Claims 74, 76 and 78 depend from independent Claims 11, 34 and 57 respectively, they are also patentable as they contain the same limitations as their respective parent claims. Therefore, Applicant respectfully submits that Claims 74, 76 and 78 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

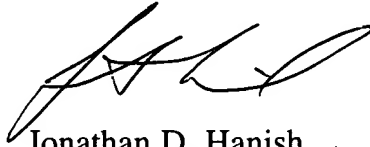
Claims 75, 77 and 79 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Shomo in view of Johnson and Kobe, and further in view of Oseroff.

Since Claims 75, 77 and 79 depend from independent Claims 23, 46 and 69 respectively, they are also patentable as they contain the same limitations as their respective parent claims. Therefore, Applicant respectfully submits that Claims 75, 77 and 79 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

If the Examiner has any questions regarding this application, the Examiner may telephone the undersigned at 775-586-9500.

Respectfully submitted,  
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